



U.S. ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 SIXTH AVENUE
SEATTLE, WASHINGTON 98101

AUG 7 1985

REPLY TO
ATTN OF: M/S 533

WAD 6906
Wa 6906
8.7.85
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Ridgefield Brick & Tile
3510 Northwest 289th Street
Ridgefield, Washington 98642

Re: Environmental Protection Agency ID. No. WAD009036906

Dear Owner/Operator:

On November 8, 1984, the Solid Waste Disposal Act (also known as the Resource Conservation and Recovery Act) was amended. These amendments, known as the Hazardous and Solid Waste Amendments of 1984 (HSWA) (Public Law 98-616), included a provision which may affect the regulatory status of all interim status land disposal facilities. Section 213(a) of the HSWA amends Section 3005(e) of the Solid Waste Disposal Act to state, in part (as it applies to interim status land disposal facilities in existence on the date of enactment of the HSWA):

- (2) In the case of each land disposal facility which has been granted interim status under this subsection before the date of enactment of the Hazardous and Solid Waste Amendments of 1984, interim status shall terminate on the date 12 months after the date of enactment of such Amendments unless the owner or operator of such facility:
 - (a) applies for a final determination regarding the issuance of a permit under subsection (c) for such facility before the date 12 months after the date of the enactment of such Amendments; and
 - (b) certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

In view of the Loss of Interim Status Provision quoted above, by November 8, 1985, all interim status land disposal facilities are required to certify compliance with applicable ground water monitoring and financial responsibility requirements and apply for a final determination with regard to the issuance of a permit or they will lose interim status and be required to cease the introduction of hazardous waste into affected units and properly close such units. In view of the significance of this self-implementing provision, the Agency is informing you of its applicability and requirements.



Applicability

The loss of interim status provision applies to all interim status land disposal units. For the purposes of this provision, a land disposal unit is defined to include the following:

- Landfills
- Land treatment
- Surface Impoundments (for storage, treatment, and/or disposal)*
- Waste Piles (for storage, treatment, and/or disposal)*
- Class I Hazardous Waste Underground Injection Wells

This provision applies to owners/operators of land disposal facilities who have fully complied with the requirements for interim status under Section 3005(e) of RCRA and 40 CFR §270.10 until final administrative disposition of their permit application is made, and to those owners/operators of facilities in existence on November 19, 1980, who have failed to provide timely notification as required by Section 3010(a) of RCRA, and/or failed to file Part A of the Permit Application as required by 40 CFR 270.10(e) and (g). This provision also applies to land disposal facilities that received a permit from a State with Phase IIC or Final Authorization, or a UIC permit from a primacy State after November 8, 1984, until such time as the HSWA requirements of the permit are issued by EPA in the case of RCRA permits, or until such time as the RCRA permit addresses corrective action for all units at a facility in the case of UIC permits issued to Class I hazardous waste underground injection wells. Please note that special rules may apply to waste piles and underground injection wells.

Compliance Certification Requirements

Under the loss of interim status provision, interim status land disposal facilities must certify compliance with all "applicable" ground water monitoring and financial responsibility requirements. These requirements vary depending upon the State in which a facility is located. The "applicable" requirements with which a facility must certify specifically depend upon the RCRA program authorization status of the State in which the facility is located. To certify compliance with "all applicable ground water monitoring and financial responsibility requirements":

- * Facilities located in a State with Phase I Authorization under the RCRA program must certify compliance with the State specific ground water monitoring requirements. In States with financial responsibility requirements incorporated as a part of their RCRA programs, facilities must certify compliance with State specific financial responsibility requirements.

* To retain interim status, your facility must certify compliance with applicable requirements for these units regardless of the intended final disposition of the waste at closure.

- ° Facilities located in a State with Phase II or Final Authorization must certify compliance with State and specific ground water monitoring and financial responsibility requirements.
- ° Facilities located in a State with a Federally managed RCRA program must certify compliance with 40 CFR Part 265 Subparts F and H ground water monitoring and financial responsibility requirements.
- ° Facilities with Class I hazardous waste underground injection wells authorized by rule (i.e., that do not yet have their UIC permit) must certify compliance with 40 CFR 146.28(g)(1)(ii) and 40 CFR 144.28(d) "ground water monitoring" and financial responsibility requirements or equivalent State requirements.
- ° Facilities with Class I hazardous waste underground injection wells with UIC permits issued by primacy States after November 8, 1984, must certify compliance with 40 CFR §146.13(b)(4) (where applicable) and 40 CFR §144.60-.70.

Within EPA Region 10, the States of Oregon and Washington have the following authorization status: Oregon--Phase I, Washington--Phase II-B. Idaho and Alaska have not been authorized for any phase of the Federal program; hence the program remains Federally managed.

To certify compliance with the applicable requirements, the owner and operator must include the following information on their certification:

- ° Name of facility owner/operator
- ° Name of facility
- ° Facility location
- ° EPA ID. number
- ° Name of land disposal unit(s) being certified, as identified on topographic map (using same information submitted on the Part A permit application)
- ° Topographic map with labeled interim status land disposal units
- ° Statement of compliance with all applicable ground water monitoring and financial responsibility requirements for each unit being certified
- ° Statement of knowing and willfull certification and acknowledgement of penalties for false certification.

Written certification must be signed according to requirements set forth in 40 CFR 270.11(a)(1) and 270.11(a)(3). Originally signed copies of your certification(s) must be sent to the EPA Region, and to the State in which the facility is located. If a facility is located in a State with a Federally run RCRA program, the owner/operator is only required to submit a copy of these documents to the EPA Region in which the facility is located.

A facility that is not in compliance with applicable ground water monitoring or financial responsibility requirements of 40 CFR Part 265 or

applicable State requirements (for both ground water monitoring and financial responsibility requirements) may not certify compliance. For example, a facility lacking monitoring wells and a valid waiver may not certify. Similarly, a facility failing to meet financial responsibility requirements may not certify. If a representative of a facility has admitted noncompliance in an enforcement action, the facility may not certify unless it achieves and maintains compliance.

Requirements for "Application for Final Determination..."

Facilities wishing to retain interim status and to continue to receive waste after November 8, 1985, under this provision are required to submit a final operating permit application* by November 8, 1985. A copy of the final operating permit application must be submitted to the EPA Region, and to the State in which the facility is located, if the State has Phase IIC or Final Authorization. If the facility is located in a State with a Federally managed RCRA program, the facility is required to submit a final operating permit application to the Region in which the facility is located.

If land disposal units at a facility will be closing on or before November 8, 1985, the owner/operator is required to comply with all applicable closure and post-closure requirements in States with Federally run programs as established under 40 CFR Part 265 Subpart G, and in States with Phase I, II or Final Authorization with applicable State closure and post-closure requirements. If a facility desires to retain interim status in a case of closure, the owner/operator of the facility must "apply for final determination..." by submitting a closure plan and a post-closure permit application by November 8, 1985. Where surface impoundments and waste piles are closed by removal of waste pursuant to 40 CFR §265.228(a) or (b), or §265.258(a), or equivalent State requirements the owner/operator must "apply for final determination..." by submitting a closure plan. A post-closure permit application may be required of these facilities if, at any time, it is determined that the standards for closure by removal of waste cannot be met. Therefore, facilities that are closing which certify compliance and submit their closure plan, and, as applicable, their post-closure permit application, will retain interim status after November 8, 1985. To receive waste after November 8, 1985, the facility must submit a final operating permit application.

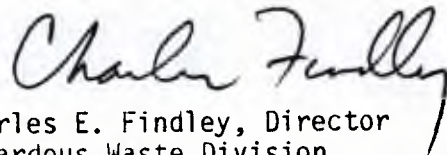
If the owner/operator of a facility does not intend, or is unable, to retain interim status beyond November 8, 1985, the owner/operator will be required to submit a closure plan and post-closure permit application in accordance with 40 CFR 265 Subpart G and 40 CFR Part 270, or equivalent State requirements. For such a facility, the closure plan is due no later than 15 days following the termination of interim status [40 CFR §265.112(c)(1)]. It should be noted that facilities losing interim status as a result of this provision may be required to take corrective action.

*In some States and in States with Federally managed RCRA programs, this is referred to as Part B permit application.

Appropriate enforcement action will be taken where units not retaining interim status continue to receive hazardous waste after November 8, 1985, or fail to comply with applicable closure and post-closure requirements. In addition, enforcement action will be taken where there is false or improper certification. The Agency anticipates capacity constraints at off-site commercial treatment, storage, and disposal facilities, which may affect the ability of certain facilities to utilize off-site disposal.

In summary, the Loss of Interim Status Provision is a self-implementing provision. Your interim status land disposal units will lose interim status on November 8, 1985, unless your facility certifies compliance with all applicable ground water monitoring and financial responsibility requirements, and submits a final operating permit application; or if you intend to close your facility, a closure plan and post-closure permit application. Questions should be referred to Charles W. Rice, within the EPA regional office, telephone (206) 442-0695.

Sincerely,

A handwritten signature in cursive script, reading "Charles Findley". The signature is written in dark ink and is positioned above the typed name and title.

Charles E. Findley, Director
Hazardous Waste Division

cc: State Agency